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DECISION



21416
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548**

Ruppert

FILE: B-206657

DATE: April 6, 1982

MATTER OF: Eldyne, Inc.

DIGEST:

1. Protester's proposal, hand-carried by courier and stamped as being received at the designated office 2 minutes after the specified closing time, was properly rejected as a late proposal; timely submission of proposal is the responsibility of the offeror.
2. Protest is summarily denied where protester's initial submission demonstrates affirmatively that protest is without merit.

Eldyne, Inc. (Eldyne), protests the rejection of its proposal under request for proposals (RFP) No. NOO123-82-R-0206 issued by the Naval Regional Contracting Office (NRCO), Long Beach, California. The closing date for receipt of proposals was February 24, 1982, at 1 p.m., and the receipt for Eldyne's proposal indicates that it was received at 1:02 p.m. on the opening date.

Eldyne contends that its proposal was hand-delivered to the bid counter prior to the scheduled opening time and was improperly rejected as late. For the reasons discussed below, we summarily deny the protest.

Eldyne states that its proposal was hand-carried by its courier who arrived and signed in at NRCO-Long Beach at 12:42 p.m. and then called the firm to obtain information needed to make changes to its cost proposal. Apparently, changes had to be made to three copies of the cost proposal. Two copies were in the shipping box which was placed on the bid counter of the contracting office at 12:58 p.m. The courier remarked to the individual at the bid counter that "this proposal for 0206 is due at 1 p.m." The courier also states that he leafed through

a third copy of the cost proposal to verify the changes while the individual responsible for receipt of the proposal left the counter immediately before 1 p.m. to confer with her supervisor in another area. She returned at 1:02 p.m. to state that the proposal was late and could not be accepted. Eldyne contends that because no one was at the bid counter at 1 p.m. to accept the proposal as offered, it was necessarily late at 1:02 p.m. when the person returned to the counter.

We have been informally advised by the agency that the individual responsible for the receipt of proposals did not leave the counter prior to 1 p.m. as alleged. In view of the conflicting statements, the time/date stamp is controlling. See Data Controls/North, Inc., B-204813.3, February 17, 1982, 82-1 CPD 139.

The RFP contained the standard late proposal clause set forth in Defense Acquisition Regulation § 7-2002.4 (1976 ed.). This clause provides that any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered except in certain instances where a proposal was sent by mail. None of the circumstances mentioned in the regulation are applicable here since the proposal was hand-delivered. We have held that a proposal received 1 minute after the closing date for receipt of proposals is late and, therefore, not for consideration. See Data Controls/North, Inc., supra.

It is the responsibility of the offeror to assure that its proposal arrives at the designated office by the deadline specified in the RFP and that the responsibility for lateness must be borne by the offeror unless a regulatory exception exists. Racon, Inc., B-199964, September 3, 1980, 80-2 CPD 174.

Since it is clear from the protester's initial submission that the protest is legally without merit, we have decided the matter without obtaining a report from the agency and processing the protest in accordance with our Bid Protest Procedures (4 C.F.R. part 21 (1981)). Devoe & Reynolds Company, B-197457, February 7, 1980, 80-1 CPD 111.

The protest is summarily denied.

for *Milton J. Fowler*
Comptroller General
of the United States